IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 83, Original

STATE OF MARYLAND, *et al.*,

Plaintiffs,

v.

STATE OF LOUISIANA,

Defendant.

MOTION OF INDICATED PIPELINE COMPANIES FOR LEAVE TO FILE ANSWER TO MOTION FOR APPOINTMENT OF A SPECIAL MASTER AND ANSWER TO MOTION

Gene W. Lafitte
John M. Wilson
Deborah Bahn Price
LISKOW & LEWIS
50th Floor, One Shell Square
New Orleans, Louisiana 70139
Telephone: (504) 581-7979

Attorneys for Florida Gas Transmission Company and Southern Natural Gas Company

Arthur J. Waechter, Jr.
Herschel L. Abbott, Jr.
Steven G. Durio
JONES, WALKER, WAECHTER, POITEVENT, CARRERE & DENEGRE
225 Baronne Street
New Orleans, Louisiana 70112
Telephone: (504) 581-6641

Attorneys for Texas Gas Transmission Corporation

DI CESARE - Printing — 331-8101 — Washington, D.C. 20006

William W. Brackett
Daniel F. Collins
BRACKETT & COLLINS, P.C.
1899 L Street N.W., Suite 501
Washington, D.C. 20036
Telephone: (202) 659-4303

Attorneys for Michigan
Wisconsin Pipe Line Company

C. McVea Oliver
J. Michael Rhymes
OLIVER & WILSON
Post Office Box 1541
Monroe, Louisiana 71201
Telephone: (318) 388-4500

Attorneys for Transcontinental
Gas Pipe Line Corporation

Ernest L. Edwards
George Frazier
Joseph N. Mole
Deborah F. Zehner
LEMLE, KELLEHER, KOHLMEYER
& MATTHEWS
1800 First NBC Building
New Orleans, Louisiana 70112
Telephone: (504) 586-1241

Attorneys for United Gas Pipe
Line Company and Sea Robin
Pipeline Company

Burt W. Sperry
Clyde R. Brown
James H. Napper, II
SHOTWELL, BROWN & SPERRY
Post Office Box 1591
Monroe, Louisiana 71201
Telephone: (318) 388-4700

Attorneys for Michigan Wisconsin
Pipe Line Company and Mississippi
River Transmission Corporation

Frank J. Peragine
H. Paul Simon
Thomas R. Blum
James A. Burton
BRIAN, SIMON, PERAGINE, SMITH
& REDFEARN
43rd Floor, One Shell Square
New Orleans, Louisiana 70139
Telephone: (504) 522-3030

Attorneys for Columbia Gas Transmission
Corporation, Consolidated Gas Supply
Corporation, El Paso Natural Gas
Company, Natural Gas Pipeline Com-
pany of America, Northern Natural
Gas Company, Panhandle Eastern Pipe
Line Company, Tennessee Gas Pipeline
Company, a Division of Tenneco Inc.,
Texas Eastern Transmission Corpor-
ation, and Trunkline Gas Company

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The pipeline companies indicated in the footnote[1] hereby respectfully move the Court for leave to file the

[1]Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, El Paso Natural Gas Company, Florida Gas Transmission Company, Michigan Wisconsin Pipe Line Company, Mississippi River Transmission Corporation, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, Sea Robin Pipeline Company, Southern Natural Gas Company, Tennessee Gas Pipeline Company, a Division

attached answer to the motion of the State of Louisiana for appointment of a special master.

The pipeline companies have filed a motion for leave to intervene in this proceeding demonstrating that they have a vital interest in the various issues presented herein. However, the Court has not yet acted on this motion by the pipeline companies.[2] Accordingly, inasmuch as the Court's action upon the instant motion of the State of Louisiana for the appointment of a special master may have an impact upon the future course of this proceeding, the pipeline companies respectfully urge that they should be permitted to file the attached answer so that the Court may be apprised of their views in connection with its disposition of that motion.

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of Tenneco Inc., Texas Eastern Transmission Corporation, Texas Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, Trunkline Gas Company and United Gas Pipe Line Company.

[2]Louisiana has filed an opposition to the motion of the pipeline companies for leave to intervene. The pipeline companies will shortly file a response to that opposition.

By their attorneys,

LISKOW & LEWIS

By /s/ Gene W. Lafitte
Gene W. Lafitte
John M. Wilson
Deborah Bahn Price
50th Floor, One Shell Square
New Orleans, Louisiana 70139
Telephone: (504) 581-7979

Attorneys for Florida Gas Transmission Company and Southern Natural Gas Company

LEMLE, KELLEHER, KOHLMEYER & MATTHEWS

By /s/ Ernest L. Edwards
Ernest L. Edwards
George Frazier
Joseph N. Mole
Deborah F. Zehner
1800 First NBC Building
New Orleans, Louisiana 70112
Telephone: (504) 586-1241

Attorneys for United Gas Pipe Line Company and Sea Robin Pipeline Company

JONES, WALKER, WAECHTER,
POITEVENT, CARRERE & DENEGRE

By /s/ Arthur J. Waechter, Jr.
Arthur J. Waechter, Jr.
Herschel L. Abbott, Jr.
Steven G. Durio
225 Baronne Street
New Orleans, Louisiana 70112
Telephone: (504) 581-6641

Attorneys for Texas Gas
Transmission Corporation

SHOTWELL, BROWN & SPERRY

By /s/ Burt W. Sperry
Burt W. Sperry
Clyde R. Brown
James H. Napper, II
Post Office Box 1591
Monroe, Louisiana 71201
Telephone: (318) 388-4700

Attorneys for Michigan Wisconsin
Pipe Line Company and Mississippi
River Transmission Corporation

BRACKETT & COLLINS, P.C.

By /s/ Daniel F. Collins
William W. Brackett
Daniel F. Collins
1899 L Street N.W., Suite 501
Washington, D.C. 20036
Telephone: (202) 659-4303

Attorneys for Michigan Wisconsin
Pipe Line Company

OLIVER & WILSON

By /s/ C. McVea Oliver
C. McVea Oliver
J. Michael Rhymes
Post Office Box 1541
Monroe, Louisiana 71201
Telephone: (318) 388-4500

Attorneys for Transcontinental
Gas Pipe Line Corporation

BRIAN, SIMON, PERAGINE, SMITH
& REDFEARN

By /s/ Frank J. Peragine
Frank J. Peragine
H. Paul Simon
Thomas R. Blum
James A. Burton
43rd Floor, One Shell Square
New Orleans, Louisiana 70139
Telephone: (504) 522-3030

Attorneys for Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, El Paso Natural Gas Company, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Texas Eastern Transmission Corporation, and Trunkline Gas Company

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ANSWER OF INDICATED PIPELINE COMPANIES TO MOTION FOR APPOINTMENT OF A SPECIAL MASTER

The indicated pipeline companies[1] respectfully submit that the motion of the State of Louisiana for appointment of a special master should be denied at this time.

[1]Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, El Paso Natural Gas Company, Florida Gas Transmission Company, Michigan Wisconsin Pipe Line Company, Mississippi River Transmission Corporation, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, Sea Robin Pipeline Company, Southern

1. The plaintiff states have moved the Court for judgment on the pleadings and the pipeline companies will shortly file a similar motion. As shown in these motions, the Louisiana First Use Tax on Natural Gas, La. R.S. 47: 1301–1307, violates the Supremacy and Commerce Clauses of the Constitution (art. VI, cl. 2 and art. I, sec. 8, respectively), and therefore must be set aside as unconstitutional. Notwithstanding the assertion of the State of Louisiana (Motion at p. 2), this case can be disposed of by the Court summarily and without the development of an evidentiary record. *See, e.g., Douglas* v. *Seacoast Products Inc.*, 431 U.S. 265, 272 (1977).

2. Consideration of the motion for appointment of a special master is premature at this time and action thereon should be deferred pending resolution of the motions for summary disposition filed by the plaintiff states and to be filed by the pipeline companies.

3. The very magnitude of the tax (an estimated $275,000,000 annually), and its immediate impact upon the pipeline companies and their customers, require that the Court dispose of this case summarily and without appointment of a special master.

WHEREFORE, for the foregoing reasons, the pipeline companies urge that Louisiana's motion for appointment of a special master be deferred.

Natural Gas Company, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Texas Eastern Transmission Corporation, Texas Gas Transmission Corporation, Transcontinental Gas Pipe Line Corporation, Trunkline Gas Company and United Gas Pipe Line Company.

By their attorneys,

LISKOW & LEWIS

By /s/ Gene W. Lafitte
Gene W. Lafitte
John M. Wilson
Deborah Bahn Price
50th Floor, One Shell Square
New Orleans, Louisiana 70139
Telephone: (504) 581-7979

Attorneys for Florida Gas Transmission Company and Southern Natural Gas Company

LEMLE, KELLEHER, KOHLMEYER & MATTHEWS

By /s/ Ernest L. Edwards
Ernest L. Edwards
George Frazier
Joseph N. Mole
Deborah F. Zehner
1800 First NBC Building
New Orleans, Louisiana 70112
Telephone: (504) 586-1241

Attorneys for United Gas Pipe Line Company and Sea Robin Pipeline Company

JONES, WALKER, WAECHTER,
POITEVENT, CARRERE & DENEGRE

By /s/ Arthur J. Waechter, Jr.
Arthur J. Waechter, Jr.
Herschel L. Abbott, Jr.
Steven G. Durio
225 Baronne Street
New Orleans, Louisiana 70112
Telephone: (504) 581-6641

Attorneys for Texas Gas
Transmission Corporation

SHOTWELL, BROWN & SPERRY

By /s/ Burt W. Sperry
Burt W. Sperry
Clyde R. Brown
James H. Napper, II
Post Office Box 1591
Monroe, Louisiana 71201
Telephone: (318) 388-4700

Attorneys for Michigan Wisconsin
Pipe Line Company and Mississippi
River Transmission Corporation

BRACKETT & COLLINS, P.C.

By /s/ Daniel F. Collins
William W. Brackett
Daniel F. Collins
1899 L Street N.W., Suite 501
Washington, D.C. 20036
Telephone: (202) 659-4303

Attorneys for Michigan Wisconsin
Pipe Line Company

OLIVER & WILSON

By /s/ C. McVea Oliver
C. McVea Oliver
J. Michael Rhymes
Post Office Box 1541
Monroe, Louisiana 71201
Telephone: (318) 388-4500

Attorneys for Transcontinental
Gas Pipe Line Corporation

BRIAN, SIMON, PERAGINE, SMITH
& REDFEARN

By /s/ Frank J. Peragine
Frank J. Peragine
H. Paul Simon
Thomas R. Blum
James A. Burton
43rd Floor, One Shell Square
New Orleans, Louisiana 70139
Telephone: (504) 522-3030

Attorneys for Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, El Paso Natural Gas Company, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Texas Eastern Transmission Corporation, and Trunkline Gas Company

CERTIFICATE OF SERVICE

I, Daniel F. Collins, a member of the Bar of this Court, do hereby certify that three (3) copies of the foregoing motion and answer were served upon each other party separately represented in this proceeding by depositing said copies in the United States mail, properly addressed, with airmail postage prepaid, pursuant to Rule 33 of the Rules of this Court, this 28th day of September, 1979.

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Daniel F. Collins